

AGENDA ITEM #: _____

DATE: June 22, 2020

CAR #: 2020-6989



CITY COUNCIL ACTION REPORT

SUBJECT: Adopt Wastewater Master Plan for Section 23, Amend 2016 Goodyear Integrated Water Master Plan and Terminate Cost Recovery Resolution 2008-1279

STAFF PRESENTER(S): Stephen Scinto, Engineering Planning Manager

OTHER PRESENTER(S): None

Summary: To allow for a more efficient and effective wastewater solution within the area of the city known as Section 23, a new wastewater master plan for Section 23 is being adopted and the city's current integrated water master plan is being amended to include the new master plan and the existing cost recovery resolution for the previous wastewater master plan for Section 23 is being terminated.

Recommendation:

ADOPT RESOLUTION NO. 2020-2074 ADOPTING THE WASTEWATER MASTER PLAN FOR SECTION 23 IMPROVEMENTS PREPARED BY HILGART WILSON; AMENDING THE 2016 CITY OF GOODYEAR INTEGRATED WATER MASTER PLAN, TERMINATING COST RECOVERY RESOLUTION OF INTENTION NO. 2008-1279; AND PROVIDING AN EFFECTIVE DATE.

Fiscal Impact: The actions taken will have no fiscal impact on the city. The existing cost recovery being terminated is solely for costs between private developers. None of the involved infrastructure is an obligation of the city or of the size or scope that is included in the IIP. Future developers may request the use of cost recovery.

Background and Previous Actions

The area in the city known as "Section 23" is the square mile within the city that is bounded by Camelback Road on the north, Indian School Road on the south, Citrus Road on the west and Cotton Lane pm the east. In 2008, in anticipation of developing its property within Section 23, Liberty Property Limited Partnership ("Liberty") submitted and obtained approval of an infrastructure plan to provide wastewater service to Section 23 (the 2008 Section 23 Wastewater Plan"). The infrastructure improvements in the 2008 Section 23 Wastewater Plan were incorporated into the City of Goodyear's integrated master utility studies, including the most recent integrated water master plan, the 2016 Integrated Water Master Plan (the "IWMP").

Because the development of the Liberty property required Liberty to construct wastewater infrastructure improvements that would benefit other property owners within the Section 23, Liberty sought a cost recovery resolution. On December 8, 2008, the mayor and council of the City of Goodyear adopted cost recovery Resolution of Intention No. 2008-1279 to provide for the collection of the proportionate share of the costs of the infrastructure improvements from the various benefitted properties (the "Cost Recovery Resolution"). That same day, the mayor and council of the city of Goodyear adopted Resolution 2008-1280, authorizing the execution of a reimbursement development agreement with Liberty that provided for the reimbursement of the costs of the infrastructure improvements Liberty had to construct to receive wastewater service to its property ("2008 Liberty Reimbursement Agreement") and approving a form of reimbursement agreement that would be used for any entity that constructed any of the infrastructure improvements included in Cost Recovery Resolution.

Under the terms of the 2008 Liberty Reimbursement Agreement, if construction of the infrastructure improvements identified in the agreement was not commenced within forty-eight (48) months of the date the 2008 Liberty Reimbursement Agreement was recorded, either party could terminate the agreement. Because of the downturn in the economy Liberty, had not commenced the construction of the infrastructure improvements identified in the 2008 Liberty Reimbursement Agreement and did not anticipate that Liberty would commence construction within forty-eight (48) months of the date the 2008 Liberty Reimbursement Agreement was recorded. Accordingly, Liberty sought to terminate the 2008 Liberty Reimbursement Agreement and enter a new reimbursement agreement that provided more time within which to commence the construction of the required infrastructure improvements. On April 27, 2012, the mayor and council of the City of Goodyear adopted Resolution 2012-1497 terminating the 2008 Liberty Reimbursement Agreement and authorizing the execution of another reimbursement development agreement with Liberty that provided for the reimbursement of the costs of the infrastructure improvements Liberty had to construct to receive wastewater service to its property (the "2012 Liberty Reimbursement Agreement").

Under the terms of the 2012 Liberty Reimbursement Agreement, either party to the agreement is entitled to request that the agreement be terminated if construction of the infrastructure improvements identified in the agreement had not been commenced within forty-eight (48) months of the date the agreement was recorded with the Maricopa County Recorder (the "Commencement Deadline"). The construction of the infrastructure improvements identified in the 2012 Liberty Reimbursement Agreement were not commenced by the Commencement Deadline, and the city executed its right to terminate the agreement. On March 23, 2020, a Termination or Reimbursement Development Agreement for Public Improvement Cost Recovery-Section 23 Sewer System was executed by Liberty Property Trust on behalf of Liberty.

Staff Analysis

To date, none of the infrastructure improvements have been constructed or installed since the 2008 Section 23 Wastewater Plan was approved and the Cost Recovery Resolution was adopted, and since then, there has been a change in ownership of various properties within Section 23 and changes in development plans. Various owners of properties within Section 23 have approached

the city proposing alternative wastewater solutions. These alternative wastewater solutions are based on more detailed engineering analysis and provide a more efficient and effective wastewater solution consistent with applicable regulatory requirements.

The Wastewater Master Plan for Section 23 Improvements prepared by Hilgart Wilson (the "2019 Section 23 Wastewater Master Plan") provides an alternative wastewater solution that is consistent with what other property owners in Section 23 have requested. Engineering staff supports the 2019 Section 23 Wastewater Master Plan; however before it can be implemented, the IWMP, which incorporated the 2008 Section 23 Wastewater Plan, has to be amended to adopt the 2019 Section 23 Wastewater Master Plan and the Cost Recovery Resolution terminated.

There have been on-going communications between various owners of property within Section 23 and/or their representatives about the proposed changes to the wastewater solution for Section 23 and the termination of the Cost Recovery Resolution. On or about May 19, 2020, notices were sent to the owners of the properties within Section 23 and/or their representatives advising that the city council will consider adopting the 2019 Section 23 Wastewater Master Plan and terminating the Cost Recovery Resolution during the meeting on June 22, 2020. A virtual meeting over Zoom was held on June 9, 2020 so that the interested parties could discuss the pending actions. Staff has not received any objections to the proposed actions.

The amendment of the IWMP to incorporate the 2019 Section 23 Wastewater Master Plan and the termination of the Cost Recovery Resolution will allow for a more efficient and effective alternative wastewater solution that complies with the city's requirement and will facilitate the development of a pending economic development project. Staff recommends that adoption of Resolution 2020-2074 adopting the Wastewater Master Plan for Section 23 Improvements prepared by Hilgart Wilson; amending the 2016 City of Goodyear Integrated Water Master Plan and terminating cost recovery Resolution of Intention No. 2008-1279.

Attachments

1. Resolution 2020-2074
 - a. Exhibit A – Wastewater Master Plan for Section 23 Improvements prepared by Hilgart Wilson
 - b. Exhibit B
 - i. Affidavit of Mailing
 - ii. Copy of form of notice
 - iii. List of recipients